

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THOMAS E. LOEHN AND PEGGY M. LOEHN

PLAINTIFFS

V.

CIVIL ACTION NO. 1:06cv168-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

ORDER

This Court entered an [28] Order for Mediation on October 20, 2006. The Order makes clear that “Counsel for the parties will be notified of the date of, time of, and room where the mediation is to take place through the American Arbitration Association.” The mediation was scheduled for 9:00 a.m. today in the United States Courthouse. The mediator was here to conduct it; neither the parties nor their counsel appeared, even after the date and time were confirmed in advance by AAA. Apparently, counsel took it upon themselves to attempt to reschedule the mediation or to arrange for private mediation without informing the Court, AAA, or the mediator. The former is not an option afforded under [28], the latter is contrary to the express provisions of the Order, and neither constitutes good cause for failure to appear.

This is not the first time that this Court has entered an order requiring payment of expenses incurred by those who arranged the mediation, and by the mediator. *See Padilla v. State Farm Fire & Casualty Co.*, Civil Action No. 1:06cv483; *Therrell v. State Farm Fire and Casualty Co.*, Civil Action No. 1:06cv151. In fact, compliance with its orders with respect to mediation is so important to the Court that the sanctions order in *Padilla* is posted on the Court’s website. While the Court does not expect this conduct to be repeated in the instant case, and looks forward to all parties and their counsel participating in the mediation in a serious and good faith manner consistent with its [28] Order, it is necessary that provision be made for the costs incurred by the mediator (it is the Court’s understanding that AAA will nevertheless send an invoice for its fee in the usual and customary manner, and the party responsible for said fee shall not be heard to complain).

Accordingly, **IT IS ORDERED:**

Counsel for Plaintiffs and Counsel for Defendant shall each send a check in the amount of \$200.00 (for a total of \$400.00) payable to Brandi C. Schwartz at the following address:

Brandi C. Schwartz, Esq.
Montgomery, Barnett, Brown, Read, Hammond & Mintz, LLP
2310 19th Street
Gulfport, MS 39501

Respective counsel shall send these checks no later than January 10, 2007, and shall provide written confirmation to the Court of payment. The payee shall also provide confirmation to the Court of the receipt of payment.

The mediation in this cause of action is **NOT** continued, but shall be rescheduled during the current round of the Court's mediation program.

SO ORDERED this the 4th day of January, 2007.

s/ *L. T. Senter, Jr.*
L. T. Senter, Jr.
Senior Judge